

Mr. Orrin G. Hatch, of Utah, made the following statements:

MR. HATCH: Mr. President . . . I would . . . like to call the attention of the Senate to the fact that one of our distinguished colleagues from the House has just brought some, I think, important papers to me.

I would like to just say that this colleague's name is Congressman George Hansen from the Second District of Idaho. Congressman Hansen has been very active of late doing everything he possibly can to justify and to bring about a means whereby the House of Representatives will not be ignored with regard to the Panama Canal treaties, and that the article IV, section 3, clause 2 sections of the Constitution likewise will not be ignored.

Congressman Hansen has put a great deal of time and effort into talking with his colleagues in the House, and he has brought over a list of 219 Members of the House who are basically subscribers or cosponsors of his resolution which states:

That it is the sense of the Congress of the United States that any right to, title to, or interest in the property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone should not be . . . disposed of to any foreign government without specific authorization . . . by an Act of Congress.

Two hundred and nineteen of his House Members have cosponsored this resolution . . .

[Congressman Hansen] has also brought to me two letters, one written to our own distinguished colleague and friend Senator Robert C. Byrd, the ma-

jority leader, and a letter to the Honorable Thomas P. O'Neill, Jr., Speaker of the House of Representatives.

I would just quote from one aspect of the letter to Speaker O'Neill.

Congressman Hansen states in his letter to Speaker O'Neill.

You will note that the concept of the Resolution is to protect the integrity of the legislative process against default or Executive usurpation. . . .

MR. ROBERT C. BYRD [of West Virginia]: For the Record, my answer was that under the Constitution the Senate has the sole prerogative and responsibility to give its approval to the ratification of a treaty No. 1; and, No. 2, property transfers can be self-executing by treaties that are approved by the Senate. . . .

THE PRESIDING OFFICER:<sup>(17)</sup> There is a request before this body for a unanimous consent to have printed in the Record certain documents [together with the remarks pertinent thereto]. . . .

Is there objection?

There being no objection, the material was ordered to be printed in the Record. . . .

## §47. Criticism of Executive and Governmental Officials; References to Presidential or Vice-Presidential Candidates

Members are permitted wide latitude to criticize the President,

17. Robert Morgan (N.C.).

other officials of the executive branch, and the government itself, contrary to the English parliamentary law which prohibits speaking “irreverently or seditiously against the King.”<sup>(18)</sup> A Member may criticize the motives or action of the President or of other executive officials,<sup>(19)</sup> but such disapproval may not extend to personal attacks, innuendo, or ridicule.<sup>(20)</sup> The Chief Executive must be referred to in debate as the President or Chief Executive and not by surname.<sup>(1)</sup>

Members may employ strong language in criticizing the government,<sup>(2)</sup> government agencies,<sup>(3)</sup> and governmental policies.

18. See Jefferson's Manual, *House Rules and Manual* §370 (1995) for the English rule and the differing practice of the House.

U.S. Const. art. I, §6, clause 1 protects Members from being questioned outside the House for any reference to the executive branch. See, in general, Ch. 7, *supra*.

19. See §§47.3, 47.4, *infra*; 5 Hinds' Precedents §§5087–5091; 8 Cannon's Precedents §§2499, 2500.

The precedents on comity, which prohibit most references in debate to the Senate or Senators, do not apply to the Vice President, who may preside over the Senate but is not a member (see §47.9, *infra*).

20. See §47.1, *infra*; 5 Hinds' Precedents §5094; and 8 Cannon's Precedents §2497.

1. See §47.1, *infra*.

2. See §§47.3, 47.5, 47.6, *infra*.

3. See §47.4, *infra*.

In debating propositions to impeach, Members may freely discuss charges and the basis for them,<sup>(4)</sup> but may not resort to personally offensive language.<sup>(5)</sup>

### ***Reference to President***

#### **§ 47.1 In discussing the President of the United States in debate a Member may not refer to him contemptuously or by surname.**

On Jan. 23, 1933,<sup>(6)</sup> Mr. James M. Beck, of Pennsylvania, arose to a point of order and stated as follows:

The gentleman from Pennsylvania [Mr. McFadden] who is now addressing the House has on more than one occasion in the course of his address referred to the President of the United States as “Hoover.” My point of order is that it does not accord with the dig-

4. See §§47.7, 47.8, *infra*; 5 Hinds' Precedents §5093.

5. See the report prepared by a select committee pursuant to H. Res. 494, 60th Cong. 2d Sess., and cited at 8 Cannon's Precedents §2497. See also 5 Hinds' Precedents §5094 for personally offensive and unparliamentary language used in reference to President Andrew Johnson when being impeached. Impeachment proceedings and references to respondent, see Ch. 14, *supra*.

6. 76 CONG. REC. 2297, 72d Cong. 2d Sess.

nity of this House that the President of the United States should be contemptuously referred to by his last name.

Speaker Pro Tempore Thomas L. Blanton, of Texas, sustained the point of order.

**§ 47.2 A statement in debate that a Member would have no more reason for criticizing the administration than for “shoving the Vice President around” was held not a breach of order.**

On June 10, 1964,<sup>(7)</sup> Mr. Wayne L. Hays, of Ohio, stated in response to a comment critical of the present administration, “You would not have any more reason for criticizing the administration than you would for shoving the Vice President around in Dallas.” (Addressed to Mr. Edgar Franklin Foreman [Tex.]).

The words were demanded to be taken down, and Speaker John W. McCormack, of Massachusetts, ruled that there was nothing objectionable or in violation of the rules of the House in the language used, being simply an opinion by Mr. Hays.

***Conduct of Government Officials***

**§ 47.3 In debate Members may arraign in strong terms the**

7. 110 CONG. REC. 13275, 88th Cong. 2d Sess.

**conduct of officials of the executive branch of the government.**

On Oct. 1, 1940,<sup>(8)</sup> Mr. John C. Schafer, of Wisconsin, delivered the following remarks in debate:

. . . God knows our half-baked nit-wits who are handling the foreign affairs have been carrying on a course of conduct which inevitably will plunge us into the new European war. . . .

Mr. Sam Hobbs, of Alabama, demanded that those words be taken down, and Speaker Pro Tempore Jere Cooper, of Tennessee, ruled that the words were not a breach of order since they did not refer to Members of the House but to certain officials in the executive branch of the government.

***Characterization of Government Agency***

**§ 47.4 A statement in debate referring to a federal agency as a socialist and communist experiment was held not to reflect upon the membership of the House and not to be a breach of order.**

On Mar. 31, 1954,<sup>(9)</sup> Mr. Ralph W. Gwinn, of New York, speaking on an amendment before the Com-

8. 86 CONG. REC. 12985, 12986, 76th Cong. 3d Sess.

9. 100 CONG. REC. 4221, 83d Cong. 2d Sess.

mittee of the Whole stated as follows: "Mr. Chairman, we have had 20 years' experience now with America's first, much-touted, great, Socialist, Communist experiment." (Referring to the Tennessee Valley Authority) Mr. James P. Sutton, of Tennessee, demanded that the words be taken down, and Speaker Joseph W. Martin, Jr., of Massachusetts, ruled, after Mr. Gwinn unsuccessfully attempted to read a definition of communism, that nothing in the language cited reflected upon the membership of the House or would otherwise be considered unparliamentary.

### *General Criticism of Government*

**§ 47.5 A statement in debate characterizing the national government as a "labor government, rapidly headed into a labor dictatorship, which, if not checked, will soon run into labor despotism" was held merely an expression of opinion and not a breach of order.**

On Feb. 26, 1942,<sup>(10)</sup> Mr. Edward E. Cox, of Georgia, stated in debate: "We are already living under a labor government, rapidly

headed into a labor dictatorship, which, if not checked, will soon run into labor despotism." Mr. Raymond S. McKeough, of Illinois, demanded that the words be taken down and Speaker Sam Rayburn, of Texas, ruled as follows:

Whatever might be the opinion of anybody who occupies this place, the present occupant would think that it would be going very far, even though words were harsh, if Members were precluded from expressing an opinion with respect to a Government tendency. The Chair sees only in these words the expression of an opinion by the gentleman from Georgia and therefore feels constrained to hold that they are not unparliamentary.

**§ 47.6 The Speaker held that language condemning the government as having become "something hated, something oppressive" did not transgress House rules.**

On June 14, 1929,<sup>(11)</sup> the following words were used in debate by Mr. Fiorello H. LaGuardia, of New York, "Why, Mr. Speaker, Uncle Sam, the United States Government, was always considered by the American people as something kindly, something to love; instead, now, it has become something hated, something oppressive." Mr. B. Frank Murphy,

10. 88 CONG. REC. 1714, 77th Cong. 2d Sess.

11. 71 CONG. REC. 2924, 71st Cong. 1st Sess.

of Ohio, demanded that the words be taken down, and Speaker Pro Tempore Thomas S. Williams, of Illinois, ruled that “the gentleman from New York was merely condemning a measure that has been enacted into law. That certainly does not transgress any rule of the House and the Chair holds the words to be in order.”

### *Debate on Impeachment*

#### **§ 47.7 In presenting impeachment charges a Member is not confined to a bare statement of the charges but may supplement them with argumentative statements as to the official in question.**

On May 7, 1935,<sup>(12)</sup> Mr. Everett M. Dirksen, of Illinois, rose in order to prefer charges of impeachment against a federal judge. During Mr. Dirksen’s address, during which he stated his personal opinion of the judge in question and of other federal judges, Mr. Hatton W. Sumners, of Texas, arose to state as follows:

I am not familiar with the precedents, but I have the impression that in preferring charges of impeachment, argumentative statements should be avoided as much as possible. If I am wrong in that statement with reference to what the precedents and custom

have established, I of course withdraw the observation.<sup>(13)</sup>

Mr. Dirksen stated that he had no desire to violate the precedents but stated that there were two additional pages of explanatory matter which he desired either to state to the House or to insert into the Record to elaborate the statement of specific charges that had been made. Speaker Joseph W. Byrns, of Tennessee, ruled as follows:

The Chair thinks it is entirely up to the gentleman from Illinois so far as the propriety of his statement is concerned.<sup>(14)</sup>

Similarly, on Jan. 14, 1936, Mr. Robert A. Green, of Florida, arose to present impeachment charges against a federal judge.<sup>(15)</sup> Mr. Carl E. Mapes, of Michigan, rose to state a point of order that Mr. Green was presenting argumentative and personal statements, after Mr. Green had delivered the following remarks:

. . . I am vitally interested in this investigation for two important reasons: First, from a careful study of the evidence I am convinced that Judge Ritter is an ignorant, unjust, tyrannical, and corrupt judge; that a majority of the people in his district have the same convictions that I have; that

12. 79 CONG. REC. 7081, 74th Cong. 1st Sess.

13. *Id.* at p. 7085.

14. *Id.*

15. 80 CONG. REC. 404, 74th Cong. 2d Sess.

confidence in him and his court is lacking; that his usefulness as a judge of the southern district of Florida has long since come to an end. Second, a large portion of the district over which Judge Ritter presides is in my congressional district, and my people demand and feel that they are entitled to a judge learned in the law and one who has dignity, honor, and integrity.<sup>(16)</sup>

Speaker Byrns ruled that Mr. Green was entitled to one hour's debate on the charges and that he could use all or any portion of the hour as he saw fit, including a general discussion of the charges.<sup>(17)</sup>

**§ 47.8 In debating articles of impeachment a Member may refer to the political, social, and family background of the accused.**

On Mar. 2, 1936, Mr. Hatton W. Sumners, of Texas, called up for consideration House Resolution 422, presenting articles of impeachment against Federal Judge Halsted L. Ritter.<sup>(18)</sup> Extensive debate ensued on the resolution, and Mr. Louis Ludlow, of Indiana, arose to present himself as a "character witness" on behalf of Judge Ritter. He began to discuss the family background of the ac-

cused and the "outstanding character and personality" of the accused's father.

Mr. Malcolm C. Tarver, of Georgia, arose to state the point of order that Mr. Ludlow was "endeavoring to read into the Record a statement with regard to the progenitors of the gentleman against whom these impeachment proceedings are pending." Mr. Tarver stated that such matters were not properly to be considered by the House and should not be discussed.<sup>(19)</sup>

Speaker Joseph W. Byrns, of Tennessee, ruled that within the four and one-half hours of debate provided for on the resolution, Members could address themselves to any subject relating to the articles of impeachment and the accused.<sup>(20)</sup>

***Application of Rule of Comity***

**§ 47.9 The Minority Leader stated that the rule of comity, prohibiting any reference in the House to the Senate or to Senators, was not applicable to criticisms in debate of the Vice President as an official of the executive branch, the Vice President not being a member of the Senate.**

16. *Id.* at p. 405.

17. *Id.* at p. 406.

18. 80 CONG. REC. 3066, 74th Cong. 2d Sess.

19. *Id.* at p. 3069.

20. *Id.*

On July 22, 1971,<sup>(1)</sup> Mr. John H. Dent, of Pennsylvania, referred critically in debate to Vice President Spiro T. Agnew. The Minority Leader, Gerald R. Ford, of Michigan, responded that Mr. Dent's remarks were inappropriate and in poor taste, and then discussed in the same context a special-order speech made on the preceding day by Mr. William L. Clay, of Missouri:

. . . If I could, let me add another comment at this point: in a special order yesterday one of the gentlemen from the other side of the aisle, on page 26517, used language in reference to a high official in the U.S. Government that I have never seen used or heard used in this Chamber. I have checked it out, and apparently under the rules of the House, that language of the gentleman from Missouri is not subject to the rules of the House because the Vice President is not a Member of the other body.

MR. [WAYNE L.] HAYS [of Ohio]: May I say to the gentleman——

MR. GERALD R. FORD: May I finish my thought? And I appreciate the gentleman giving me this time.

I cannot imagine somebody in this body on either side of the aisle using language of that kind on the floor of the House in reference to the second ranking Member of the U.S. Government in the executive branch. I could appropriately categorize that language in one way or another, but I would

have to use language, in my opinion, that would violate the rules of the House.

It seems to me that the gentleman from Missouri (Mr. Clay) for having used that language, owes an apology to the House and an apology to the Vice President.

### ***References to Senators, Candidates for President***

**§ 47.10 Although it is not in order in debate to criticize a member of the Senate, where a Senator is also a candidate for President or Vice President, his official policies, actions, and opinions as a candidate may be criticized in terms not personally offensive.**

On Sept. 29, 1988,<sup>(2)</sup> Speaker James C. Wright, Jr., of Texas, set forth the principles governing references to candidates for President or Vice-President, particularly where a candidate is a member of the Senate. On that day, after a demand that words uttered in debate be taken down as unparliamentary, the Speaker ruled that the remarks characterizing the relationship between Senator and Vice-Presidential candidate J. Danforth Quayle's political words and his living deeds as "hypoc-

1. 117 CONG. REC. 26654, 92d Cong. 1st Sess.

2. 134 CONG. REC. 26683, 26684, 100th Cong. 2d Sess.

risys” were out of order and should be withdrawn:

(Mr. Williams asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [PAT] WILLIAMS [of Montana]: Mr. Speaker, yesterday Republican Vice-Presidential candidate Dan Quayle was in Texas. He visited, he was kind enough to go by and visit a Job Corps center in El Paso, and while there he looked 300 Job Corps students in the eye and said, “We believe in you.”

He did not tell them that he had voted to shut that center down. He did not tell them that the Reagan-Bush administration in fact has demanded that every Job Corps center in America, bar none, be closed.

This is the same Senator Quayle that supports wars that he won’t fight, the same Senator Quayle who got into law school under an entry minority program that he later votes against.

There is a word for it, my colleagues, it is called hypocrisy.

MR. [DAN] LUNGREN [of California]: Mr. Speaker, I ask that the gentleman’s words be taken down. . . .

THE SPEAKER: The Clerk will report the words of the gentleman from Montana.

The Clerk read as follows:

This is the same Senator Quayle that supports wars that he won’t fight, the same Senator Quayle who got into law school under an entry minority program that he later votes against.

There is a word for it, my colleagues, it is called hypocrisy.

THE SPEAKER: The Chair has considered closely the question of the use of

words to distinguish policies as opposed to individuals. There are precedents touching on proper and improper references in debate and dealing with the preservation of comity between the House and Senate. It is important to recognize that the individual referenced in the remarks not only is a candidate for Vice President of the United States but is a Member of the other body.

The precedents relating to references in debate to the President, Vice President, or to a Member of the other body who is a nominated or declared candidate for President or Vice President permit criticisms of official policy, actions and opinions of that person as a candidate, but do not permit personal abuse, do not permit innuendo and do not permit ridicule, and they do require that the proper rules of decorum must be followed during any debate relating to the President of the United States or a Member of the other body.

It could be argued that there is a distinction between calling an individual a hypocrite, for example, and referring to some policy as hypocrisy, but the Chair has discovered a precedent that seems to be directly in point. In 1945, a Member of the House from Georgia referred to another Member and said, “I was reminded that pretexts are never wanting when hypocrisy wishes to add malice to falsehood or cowardice to stab a foe who cannot defend himself.” Speaker Rayburn ruled that this was out of order as an unparliamentary reference to another Member of the body.

By extension, the same identical words should be held out of order in reference to a Member of the other body whether or not he were a can-



didate for a high office, and under these circumstances and citing this precedent, the Chair would suggest that the gentleman from Montana withdraw the offending remarks, including the particular word "hypocrisy," and either amend his reference in the permanent Record or delete it. . . .

MR. WILLIAMS: Mr. Speaker, do I understand correctly that the Speaker's ruling is based upon my characterization of a U.S. Senator, in this case Senator Quayle, that had the Republican Vice-Presidential candidate not been at this time a U.S. Senator, that my remarks would, in fact, be in order? . . .

THE SPEAKER: . . . The Chair would suggest to the gentleman from Montana that there are standards that apply in the Chamber and in the precedents with respect to nominated candidates for President and Vice President. The Chair is not certain if they are precisely the same as applied to a Member of the other body or a Member of this body, but in this instance, it is not necessary to make that hypothetical distinction since the individual involved is a Member of the other body.

MR. WILLIAMS: Further parliamentary inquiry, Mr. Speaker: Would it be within the rules of the House if the last sentence of my 1-minute, the one which characterizes Senator Quayle's actions as hypocrisy, be removed by unanimous consent from my 1-minute statement?

THE SPEAKER: The Chair would suggest to the gentleman from Montana that this might be a satisfactory solution.

MR. WILLIAMS: Mr. Speaker, I ask unanimous consent that the last sen-

tence of my 1-minute statement, the sentence in which I characterized Senator Quayle's actions as hypocrisy, be stricken.

MR. LUNGREN: Mr. Speaker, parliamentary inquiry.

THE SPEAKER: Please, the Chair will recognize the gentleman for a parliamentary inquiry, but, first, please permit the gentleman from Montana to complete his request. . . .

MR. LUNGREN: I reserve the right to object, Mr. Speaker.

THE SPEAKER: That is fine. The gentleman may reserve his right to object, but in the interests of orderly procedure, permit the Chair to allow the gentleman from Montana to complete his request.

MR. WILLIAMS: Let me be sure the Chair understands my request: I have asked unanimous consent that the last sentence of my 1-minute statement be stricken. . . .

THE SPEAKER: . . . Has the gentleman from Montana completed his request?

MR. WILLIAMS: No, Mr. Speaker, I have not. Both times I have been interrupted as I have attempted to ask unanimous consent that the last sentence of my 1-minute statement be eliminated. That was the sentence which referred to Senator Quayle's actions as hypocrisy. I seek unanimous consent to strike the last sentence of my 1-minute statement.

THE SPEAKER: Is there objection to the request of the gentleman from Montana?

MR. LUNGREN: Mr. Speaker, reserving the right to object, Mr. Speaker, under normal circumstances and in the interests of comity of this House and

the relationship of this House and the other body, I would not object. However, as is very obvious from the statements of the gentleman, the insult, the language that is not to be used under our rules was repeated three times in an effort to make a point which violates, in my judgment, the sense of the rules of the House and, therefore, since it is not, I believe, appropriate to do that, I object.

THE SPEAKER: Objection is heard.

### ***References to President Made Outside Chamber***

#### **§ 47.11 The Minority Leader took the floor to criticize the Speaker for making certain remarks in his daily press conference concerning the President of the United States.**

On July 25, 1984,<sup>(3)</sup> the following statement was made on the floor by Minority Leader Robert H. Michel, of Illinois:

MR. MICHEL: Mr. Speaker, a few moments ago the distinguished majority leader referred to the President as "intellectually dishonest."

Mr. Speaker, on July 19, 1984, United Press International reported that the Speaker of the House said the following things about the President of the United States—and I quote:

The evil is in the White House at the present time . . . and that evil is a man who has no care and no con-

cern for the working class . . . He's cold. He's mean. He's got ice water for blood.

In almost 30 years in the House, I have never heard such abusive language used by a Speaker of the House about the President of the United States. . . .

There are precedents in our House rules forbidding personal abuse of a President on the floor of the House.

Surely the spirit of these rules ought to be adhered to by the Speaker off the floor as well as on the floor.

*Parliamentarian's Note:* While there are precedents indicating that it is a breach of order in debate to refer to the President disrespectfully,<sup>(4)</sup> the principle has not been extended to statements made outside the Chamber.

### ***Inserting in Record Remarks Made in Press Critical of President***

#### **§ 47.12 In response to a parliamentary inquiry, the Chair, while declining to rule on the propriety in prior debates of certain references to the President, indicated that a more permissive standard than that applicable to references to a sitting Member does not permit language personally abusive of the President.**

3. 130 CONG. REC. 20931, 98th Cong. 2d Sess.

4. See 8 Cannon's Precedents §§2497, 2498.

The following proceedings occurred in the House on Feb. 25, 1985:<sup>(5)</sup>

THE SPEAKER PRO TEMPORE:<sup>(6)</sup> Under a previous order of the House, the gentleman from Georgia (Mr. Gingrich) is recognized for 60 minutes.

MR. [NEWT] GINGRICH [of Georgia]: Mr. Speaker, I am going to insert in the Record today and read into the Record several editorials, one from the Atlanta Journal and Constitution yesterday, Sunday, February 24, and one this morning from the Wall Street Journal. . . .

Yet twice the House has voted to deny McIntyre the seat while it investigates. . . .

A few Republicans near each election try to remind voters that the Democrats' first vote will be for O'Neill and that vote signals bondage. This year it meant the abandonment of fairness. . . .

MR. GINGRICH: . . . I was asking the Chair to rule in this sort of setting if one is reporting to the House on the written opinion of a columnist in which the columnist has said very strong things, is it appropriate for the House to be informed of this and, if so, what is the correct procedure?

THE SPEAKER PRO TEMPORE: The ruling of the Chair is that the gentleman should not read into the Record things which would clearly be outside the rules of this House. . . .

MR. GINGRICH: If I may continue a moment to ask the gentleman, if we are in a situation where in the view of

some people, such as Mr. Williams of the Atlanta Journal-Constitution, very strong things are legitimately being said, and this is obviously his viewpoint, what is the appropriate manner in which to report his language to the House?

That is not me saying these things; he is saying these things.

THE SPEAKER PRO TEMPORE: The gentleman knows the rules of the House, I am certain, and he can take out or delete any things that he knows would violate the rules of this House if spoken from the floor. . . .

MR. GINGRICH: If I may reclaim my time and also ask the Chair . . . would the Chair uphold the same precedents on the unparliamentary remarks with respect to the President of the United States?

THE SPEAKER PRO TEMPORE: If they violate the rules of the House the Chair would certainly do that. If the President is personally being abused on the floor of this House, the Chair would do so. . . .

Anyone could raise a point of order concerning such language, and the Chair cannot now say how the Chair would rule. . . .

MR. GINGRICH: But it is the Chair's—I will yield in just a second—but it would be the Chair's understanding, or the Chair's inclination that the President has the same basic protection as a Member of the House in terms of his name?

THE SPEAKER PRO TEMPORE: The gentleman would recognize that it is not quite the same standard, but nonetheless anyone, of course, is capable of making an objection.

In Cannon's Procedure, as to the President, section 370, it says:

5. 131 CONG. REC. 3344–47, 99th Cong. 1st Sess.

6. Sam B. Hall, Jr. (Tex.).

The principles of decorum and courtesy governing the relations of the two Houses should extend to the relations of the House with the President. In referring to the President a Member shall abstain from language personally offensive and shall eschew terms of [opprobrium]. It is the duty of the House to protect the President from personal abuse or innuendo.

MR. GINGRICH: So about a year ago when the very distinguished majority leader referred to him I think 16 times in 1 minute, using words like “untrue” and “lie”——

THE SPEAKER PRO TEMPORE: First of all let the Chair say to the gentleman from Georgia that the Chair is not going to rule on something that happened before. . . .

The Chair heard no objection to that speech to which the gentleman is referring.

### ***Addressing President in Debate***

**§ 47.13 Although Members may discuss past and present Presidential actions and suggest possible future Presidential actions, it is not in order to address remarks in debate directly to the President, as in the second person.**

On Oct. 16, 1989,<sup>(7)</sup> during the period for one-minute speeches in the House, the Speaker cautioned

7. 135 CONG. REC. 24715, 101st Cong. 1st Sess.

**Members against a renewed tendency to address remarks in debate directly to the President.**

MR. [ROBERT G.] TORRICELLI [of New Jersey]: Mr. Speaker, George Bush's honeymoon is most assuredly now over. . . .

Mr. President, it is time to get to work, time to decide why is it you sought the Presidency, to tell us where it is you would take America. . . .

Mr. President, listen to this, if you will, from the president of the Chase Manhattan Bank: “There are some very significant issues out there such as the fiscal deficit, our relations with Japan, that have to be the subject of major initiatives. I'd like to see that initiative, and I haven't. There is no agenda.”

Mr. President, listen to not only your critics but to your fans. It is time to lead our country.

THE SPEAKER:<sup>(8)</sup> As the Chair announced on July 23, 1987, it is not in order to address the President in debate. Members must address their remarks to the Chair. Although Members may discuss past and present Presidential actions and suggest possible future Presidential actions, they may not directly address the President, as in the second person.<sup>(9)</sup>

### **§ 47.14 Under clause 1 of Rule XIV, remarks in debate**

8. Thomas S. Foley (Wash.).

9. See also the proceedings of May 17, 1989 (remarks of Mrs. Barbara Boxer, of California); and, in the 101st Cong. 2d Sess., the proceedings of May 8, 1990 (remarks of Mr. Richard J. Durbin, of Illinois) and May 9, 1990 (remarks of Mr. Charles E. Schumer, of New York).

**should be addressed to the Chair, and it is not in order to direct remarks outside the Chamber or to address others, including the President, in the second person.**

During a one-minute speech in the House on Oct. 11, 1990,<sup>(10)</sup> the Chair admonished a Member against directing his remarks to any individual other than the Chair. The proceedings were as follows:

MR. [LES] AUCOIN [of Oregon]: Mr. Speaker, I am truly amazed at the President's flip-flop on whether the wealthy should pay their fair share of income taxes. . . .

Well, Mr. President, you were elected to know what to do.

The American people are confused. They want you to lead. Let me make a suggestion:

Drop your commitment to no new taxes for your rich friends, and take a stand for the middle class and say, "I am with you. I'm going to make this Tax Code fair for American working families." . . .

THE SPEAKER PRO TEMPORE:<sup>(11)</sup> The Chair is constrained to remind Members that it is not proper directly to address the President from the floor.

### ***Unparliamentary References to President***

#### **§ 47.15 Language in debate charging that the President**

10. 136 CONG. REC. p. \_\_\_\_, 101st Cong. 2d Sess.

11. Romano L. Mazzoli (Ky.).

**has been "intellectually dishonest" is a breach of order connoting an intent to deceive that is personally abusive of the President; the Chair clarified his ruling in this instance by comparing similar words that were distinguishable in connotation.**

On May 9, 1990,<sup>(12)</sup> following an admonition to a Member to refrain from unparliamentary references to the President, the Chair clarified that earlier ruling, as indicated below:

(Mr. Torricelli asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [ROBERT G.] TORRICELLI [of New Jersey]: Mr. Speaker, you heard it here today: Republican Member after Republican Member taking the floor, predicting that the President will never raise taxes.

I am here to predict that he will raise taxes. And, Mr. Speaker, we are both right because no doubt, for the President's friends, for those of privilege in America he will never raise taxes.

But for you and for me and for the overwhelming majority of Americans, he is—he says that he is going to, and he is about doing it. It isn't, Mr. Speaker, that the President is intellectually dishonest, though indeed in the last election he was. It is about the fact that he has a \$500 billion—

12. 136 CONG. REC. 9828, 9829, 101st Cong. 2d Sess.

MR. [ROBERT S.] WALKER [of Pennsylvania]: Mr. Speaker, I ask that the gentleman's words be taken down.

[The words in question were held to be unparliamentary, the Speaker Pro Tempore<sup>(13)</sup> stating as follows:]

In referring to the President during debate a Member shall abstain from "terms of approbrium," such as calling the President a "liar"—V, 5094, VIII, 2498.

Subsequently in the proceedings, the Chair stated as follows:

THE SPEAKER PRO TEMPORE: If the Chair could have order, let the Chair clarify his ruling.

The Chair would like to clarify his earlier ruling on the words of the gentleman from New Jersey.

The Chair does not believe that an allegation of intellectual inconsistency is necessarily unparliamentary.

However, to whatever extent the phrase "intellectual dishonesty" may connote an intent to deceive, the Chair believes that it does tend to be personally offensive and therefore unparliamentary.

**§ 47.16 Debate may not include remarks personally offensive toward the President, including references to accusations of sexual misconduct, and the Chair will caution Members against using such personally offensive references.**

On May 10, 1994,<sup>(14)</sup> in response to frequent remarks relative to al-

legations of sexual misconduct by the President, the Speaker reminded all Members that the rules of comity prevent discussions of the President's personal character.

THE SPEAKER:<sup>(15)</sup> Under the Speaker's announced policy of February 11, 1994, the gentleman from Texas (Mr. Smith) is recognized during morning business for 5 minutes.

MR. [LAMAR S.] SMITH of Texas: Mr. Speaker, a few days ago Newsweek published an article the likes of which I have never seen before concerning a current President. Titled "The Politics of Promiscuity," it examines the basic question of President Clinton's character. . . .

The Newsweek author is not talking about promiscuity's most common meaning, but its fullest meaning—casual or irregular behavior. Whether at home or abroad, this kind of careless, cavalier conduct has been the trademark of this administration. . . .

President Clinton's financial dealings are a case in point. . . .

The President has insisted that he lost money on his financial transactions and he believes that should be the end of the discussion. . . .

The question is not whether money was made, but why was he involved in the first place? And the answer is that he had no business doing business with people whose business it was his business to regulate.

If this fault were the only lapse—or if the administration's faults were only lapses—then there would not be such a

13. John P. Murtha (Pa.).

14. 140 CONG. REC. p. \_\_\_\_, 103d Cong. 2d Sess.

15. Thomas S. Foley (Wash.).

cause for concern. But as the administration's faults continue to mount and continue to erode America's foundations, it becomes daily more obvious that they are not lapses. They are not strayings from a shared path of principles, but a new route of questionable rights and values altogether. . . .

The Newsweek article observes President Clinton tells his closest advisers that "character is a journey, not a destination." Klein writes:

This evolutionary notion of character is something of a finesse: it can drift from explaining lapses to excusing them. There is an adolescent, unformed, half-baked quality to it—as there is to the notion of promiscuity itself: an inability to settle, to stand, to commit. It will not suffice in a president. . . .

(Mr. Ballenger asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [CASS] BALLENGER [of North Carolina]: Mr. Speaker, the President has hired Robert Bennett, the noted defense attorney, to defend him against charges of sexual harassment.

Can Bennett defend the President against charges of factual harassment? This is where the President says one thing, but does another.

His health care plan was supposed to promote health security for all, but in reality would lower health care quality while costing a million jobs.

He promised to end welfare as we know it, but if he has a plan he will not show it. . . .

THE SPEAKER: The Chair wishes to remind Members that comments regarding the President of the United States are covered by House rules of

comity, and Members should avoid any references to the President that involve suggestions of a personal character.

The Chair wishes to allow reasonable latitude for debate on subjects of personal interest and importance, but Members will observe the rules of comity with regard to the President, Members of the other body, and their fellow Members.

*Parliamentarian's Note:* The Speaker, with the concurrence of the Minority Leader, advised the Parliamentarian that extraneous matter inserted in the Record should also be perused for conformity with the Speaker's statement on this matter.

**§ 47.17 A Member was disciplined for stating that the President had given "aid and comfort to the enemy," and the Chair indicated that the Member would not be allowed to speak on the floor of the House or to insert remarks in the Record in any manner or form for 24 hours.**

On Jan. 25, 1995,<sup>(16)</sup> a Member was disciplined for remarks relating to the President:

(Mr. Dornan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

MR. [ROBERT K.] DORNAN [of California]: . . . I was offended by Clinton's speech last night on 15 points.

16. 141 CONG. REC. p. \_\_\_\_, 104th Cong. 1st Sess.

I will do a 5-minute special order tonight I have just signed up for. I can only mention four.

The first one is new covenant. The Ark of the Covenant was the Old Covenant. The New Covenant was the Son of God, Jesus Christ. . . .

No. 2, to put a Medal of Honor winner in the gallery that joined the Marine Corps at 16, fudging his birth certificate, that pulled that second grenade under his stomach, miraculously surviving and saving his four friends, he did that 6 days past his 17th birthday.

Does Clinton think putting a Medal of Honor winner up there is not going to recall for most of us that he avoided the draft three times and put teenagers in his place possibly to go to Vietnam?

No. 3, the line on the cold war. . . .

By the way, Mr. Speaker, the second amendment is not for killing little ducks and leaving Huey and Dewey and Louis without an aunt and uncle. It is for hunting politicians, like Grozny, 1776, when they take your independence away. . . .

MR. [VIC] FAZIO of California: Mr. Speaker, I move the gentleman's words be taken down. . . .

THE SPEAKER PRO TEMPORE:<sup>(17)</sup> All Members will suspend. The Clerk will report the words spoken by the gentleman. . . .

The Clerk read as follows:

Even Andrea Mitchell of NBC took note that [it] is Ronald Reagan's prerogative, George Bush's and all of us who wore the uniform or served in a civilian capacity to crush the evil empire. Clinton gave aid and comfort to the enemy.

THE SPEAKER PRO TEMPORE: In the opinion of the Chair, that is not a proper reference to the President. Without objection, the words are stricken from the Record. . . .

MR. FAZIO of California: Mr. Speaker, reserving the right to object, I think the gentleman from California [Mr. Dornan] owes the entire institution, the Congress, and the President an apology.

MR. DORNAN: Hell no; hell, no. . . .

Unanimous consent to proceed for 15 seconds? . . .

THE SPEAKER PRO TEMPORE: The gentleman from California [Mr. Fazio] has the floor at this moment.

MR. FAZIO of California: I would be happy to yield to my colleague from California, since I have the time, to hear his response.

MR. DORNAN: Will the gentleman yield?

MR. FAZIO of California: I yield to the gentleman from California.

MR. DORNAN: To my distinguished friend and colleague, Maj. Earl Kolbale, Lt. Comdr. J. J. Connell was beaten to death in Hanoi. I have had friends beaten to death in Hanoi, tortured and beaten. You have not. . . .

I will not withdraw my remarks. I will not only not apologize. . . .

MR. [HAROLD L.] VOLKMER [of Missouri]: I ask that the words of the gentleman from California be taken down.

MR. DORNAN: Good. I will leave the floor, no apology, and I will not speak the rest of the day. The truth is the truth.

THE SPEAKER PRO TEMPORE: The House will be in order. The gentleman's words have already been taken down. . . .

17. John J. Duncan, Jr. (Tenn.).



MR. FAZIO of California: The gentleman is challenging the words that were uttered in response to my question.

THE SPEAKER PRO TEMPORE: The Chair rules that those words as follows "I believe the President did give aid and comfort to the enemy, Hanoi," were also out of order. The Chair has ruled that, based on the precedents of the House, the words of the gentleman from California were out of order, and without objection, both sets of words will be stricken from the Record. . . .

MR. FAZIO of California: I have a parliamentary inquiry of the Speaker at this point.

THE SPEAKER PRO TEMPORE: The gentleman will state his inquiry.

MR. FAZIO of California: When the Speaker rules that the gentleman should not be allowed to speak for 24 hours, does that encompass remarks that might be placed in the Record, participation in special orders, and other activities that might not involve the gentleman speaking on the floor?

THE SPEAKER PRO TEMPORE: It is the House's determination as to whether or not the Member should be allowed to proceed in order for the remainder of the day. That determination shall not be made by the Chair.

MR. FAZIO of California: In other words, is the House required to vote on whether or not remarks should be placed in the Record?

THE SPEAKER PRO TEMPORE: Unparliamentary remarks cannot be inserted in the Record.

MR. FAZIO of California: But remarks that are not ruled unparliamentary may be placed in the Record if they are not uttered on the floor; is that the ruling of the Speaker?

THE SPEAKER PRO TEMPORE: Unparliamentary remarks should not be inserted in the Record in any manner or form. . . .

MR. FAZIO of California: So in other words, just to confirm the Speaker's ruling, we will not read or hear from the gentleman from California [Mr. Dornan] for the next 24 hours; is that correct?

THE SPEAKER PRO TEMPORE: Unless the House permits him to proceed in order, the gentleman is correct.

MR. FAZIO of California: And for the House to permit that would require a majority vote?

THE SPEAKER PRO TEMPORE: It would require either unanimous consent or a majority vote of the House to permit the gentleman to proceed in order. . . .

MR. [DAVID E.] BONIOR [of Michigan]: Mr. Speaker, the gentleman from California [Mr. Dornan] is on his feet. Is he not supposed to remain seated until the determination?

THE SPEAKER PRO TEMPORE: The gentleman can either be seated or leave the Chamber.

MR. BONIOR: He chose to leave the Chamber; OK. . . .

In a further ruling, the Chair stated that the following words were not unparliamentary:

By the way, Mr. Speaker, the Second Amendment is not for killing little ducks and leaving Huey, Duey and Louie without an aunt and uncle. It is for hunting politicians, like Grozny, 1776, when they take your independence away. Thank you, Mr. Speaker.

### ***References to President's Family***

#### **§ 47.18 In response to a parliamentary inquiry, the**

**Speaker advised that it is not in order in debate to refer to the President in terms personally offensive; but that the traditional protections (in Jefferson's Manual and the precedents) against unparliamentary references to the President do not necessarily extend to members of his family.**

On July 12, 1990,<sup>(18)</sup> after the Chair had exercised his initiative in cautioning a Member against improper references to individual Senators, he responded to a parliamentary inquiry regarding references to the President. The proceedings in the House were as follows:

MR. [NEWT] GINGRICH [of Georgia]: Mr. Speaker, it is outrageous for the Senate Democratic leader to publicly demand higher taxes and a massive 25-percent increase in the income tax top rate. The Senate Democratic leader is threatening to destroy the budget summit.

Mr. Speaker, Senator Mitchell does not attend summit meetings. He publicly demands tax increases. Senator Mitchell does not offer serious budget reforms. He publicly demands tax increases. . . .

THE SPEAKER:<sup>(19)</sup> The Chair will . . . caution the gentleman from Georgia

that such references to Members of the other body are not in order. . . .

Debate may include references to actions taken by the Senate or by committees thereof, which are a matter of public record . . . but may not include other references to individual Members of the Senate or other quotations from Senate proceedings.

MR. GINGRICH: Let me then ask the Speaker:

Is the Chair prepared, because there is a similar phrase about protecting the integrity of the President, is the Chair as prepared to rule tightly when members of the Democratic Party describe President Bush and his immediate family? Are we going to have a standard by which I may not refer to the action of the Democratic leader in the Senate, which is a public action in a newspaper, but the members of the Democratic Party may say virtually anything weakening, and defaming and insulting the President of the United States? . . .

THE SPEAKER: The Chair will tell the gentleman from Georgia [Mr. Gingrich] that references to the President of the United States that are personally offensive references are not permitted in debate. They are not covered by this particular rule. This rule reflects upon references to the other body and is in a long tradition of comity between the two bodies of the Congress. It has been recently amended to permit references to Senate actions, but the tradition against making references to individual Senators or characterizing their activity on or off the floor is against the rule and traditions of the House. . . .

MR. GINGRICH: . . . I would simply want to serve notice to my colleagues

18. 136 CONG. REC. p. \_\_\_\_, 101st Cong. 2d Sess.

19. Thomas S. Foley (Wash.).

on the Democratic side that we will ask the Chair to be as strict in protecting the President and his immediate family as the Chair is legitimately being with respect to the other body.

THE SPEAKER: The gentleman from Georgia [Mr. Gingrich] has, in effect, cooperated with the Chair on the matter. . . .

MR. [DENNIS E.] ECKART [of Ohio]: Mr. Speaker, I have a parliamentary inquiry. . . .

To what extent do the rules of the House extend to individuals who may be related to public officials.

THE SPEAKER: The traditions only go to the references to Members of the other body personally or to the President personally, but do not necessarily go to the matters of the President's family.

*Parliamentarian's Note:* In some instances, of course, a particular criticism of the President's family might constitute a personal affront to the President himself.

## § 48. Procedure; Calls to Order

Clause 4 of Rule XIV of the House rules provides a procedure for dealing with disorderly words or actions by Members:

If any Member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any Member may, call him to order; in which case he shall immediately sit down,

unless permitted, on motion of another Member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the Member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper.<sup>(1)</sup>

Where the violation of the rules is technical and not willful, a point of order, rather than a demand that words be taken down, is often made, and if sustained the Speaker directs the Member who had the floor to proceed in order.<sup>(2)</sup>

Where objectionable words are uttered in debate and are called to the attention of the House, the provisions of the cited rule are followed explicitly. If a Member demands that the offending words "be taken down," the Member must take his seat until the words are reported pursuant to Rule XIV clause 5:

If a Member is called to order for words spoken in debate, the Member calling him to order shall indicate the words excepted to, and they shall be taken down in writing at the Clerk's desk and read aloud to the House; but he shall not be held to answer, nor to be subject to the censure of the House therefor, if further debate or other business has intervened.<sup>(3)</sup>

1. *House Rules and Manual* §760 (1995).
2. See Ch. 31, *infra*, for points of order.
3. *House Rules and Manual* §761 (1995).